

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Denali Spectrum License Sub, LLC |) | WT Docket No. 09-64 |
| |) | |
| Petition for Forbearance under 47 U.S.C. § 160(c) |) | |
| From Application of the Unjust Enrichment |) | |
| Provisions of 47 C.F.R. § 1.2111(d)(2)(i) |) | |
| |) | |

ORDER

Adopted: March 2, 2010

Released: March 2, 2010

By the Associate Chief, Wireless Telecommunications Bureau:

1. In this Order, we extend by 90 days the period of time for which the Commission may consider a petition filed by Denali Spectrum License Sub, LLC (“Denali”)¹ seeking forbearance from the Commission’s rules.² Under section 10(c) of the Communications Act of 1934, as amended (the “Act”), the Commission may extend the one year period for review of a petition for forbearance if the Commission finds such an extension is necessary.³

2. On March 12, 2009, Denali filed a petition requesting that the Commission forbear from enforcing the current unjust enrichment requirement in our competitive bidding rules.⁴ Denali acquired a license at auction with a 25 percent bidding credit, or discount, because it qualified under the Commission’s rules as eligible to receive small business benefits. In its Petition, Denali asks that the Commission not apply the unjust enrichment rule that would require it to repay this discount if it assigns the license to an entity that does not qualify for the same small business benefits.

3. Section 10(c) of the Act states that a petition for forbearance shall be deemed granted if the Commission does not deny the petition for failure to meet the requirements for forbearance under section 10(a) within one year after the Commission receives it, unless the Commission extends the one-year period.⁵ The Commission may extend the initial one-year period by an additional 90 days if the Commission finds that an extension is necessary to meet the requirements of section 10(a).⁶

¹ Petition for Forbearance, filed by Denali Spectrum License Sub, LLC, on March 12, 2009 (“Petition”). On May 19, 2009, the Wireless Telecommunications Bureau placed the Petition on public notice. “Wireless Telecommunications Bureau Seeks Comment on Petition of Denali Spectrum License Sub, LLC for Forbearance from Unjust Enrichment Provisions of 47 C.F.R. § 1.2111(d)(2)(i),” WT Docket No. 09-64, *Public Notice*, 24 FCC Rcd 5720 (2009).

² 47 U.S.C. § 160(c).

³ *Id.*

⁴ 47 C.F.R. § 1.2111(d)(2)(i).

⁵ 47 U.S.C. § 160(c).

⁶ *See, e.g.*, Petition of Ameritech Corporation for Forbearance from Enforcement of Section 275(a) of the Communications Act of 1934, as amended, *Order*, 14 FCC Rcd 6415 (1999).

4. The Petition raises significant questions regarding whether forbearance from application of enforcement of the Commission's unjust enrichment rule meets the statutory requirements set forth in section 10(a). The Bureau thus finds that a 90-day extension is warranted under section 10(c).

5. Accordingly, IT IS ORDERED that, pursuant to section 10 of the Communications Act of 1934, as amended, 47 U.S.C. § 160, and authority delegated under sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291,⁷ the date on which Denali's forbearance petition shall be deemed granted, in the absence of a Commission denial of the Petition for failure to meet the statutory standards for forbearance, is extended to June 10, 2010.

FEDERAL COMMUNICATIONS COMMISSION

Jane E. Jackson
Associate Chief
Wireless Telecommunications Bureau

⁷ See 47 U.S.C. § 155(c).